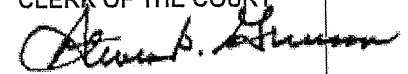


EXHIBIT “A”

EXHIBIT “A”

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Steven D. Grierson
CLERK OF THE COURT



COMP
BRIAN K. HARRIS, ESQ.
Nevada Bar No. 7737
CHRISTIAN N. GRIFFIN, ESQ.
Nevada Bar No. 10601
HARRIS & HARRIS
1645 Village Center Circle, Suite 60
Las Vegas, Nevada 89134
702.880.4529 - Telephone
702.880.4528 - Facsimile
Brian@harrislawyers.com
Attorneys for Plaintiff

CASE NO: A-20-818724-C
Department 32

DISTRICT COURT
CLARK COUNTY, NEVADA

SUSAN RODRIGUEZ)	Case No.
)	Dept. No.
Plaintiff,)	
)	
vs.)	
)	
SMITH'S FOOD & DRUG CENTERS, INC.))	
DOES 1 through 10 inclusive; ROE)	
CORPORATIONS 11 through 20,)	
inclusive,)	
Defendants.)	

COMPLAINT

Plaintiff alleges as follows:

1. That at all times relevant hereto, Plaintiff SUSAN RODRIGUEZ was and is a resident of Clark County, Nevada.
2. That at all times relevant hereto, Defendant SMITH'S FOOD & DRUG CENTERS, INC., was and is a Foreign Corporation doing business in Clark County, Nevada.

....

....

....

1 3. That the identities of Defendants, DOES 1 through 10 and ROE
2 CORPORATIONS 11 through 20, are unknown at this time and may be individuals,
3 partnerships or corporations. Plaintiff alleges that each of the Defendants designated herein as
4 DOE or ROE CORPORATION is responsible in some manner for the damages herein alleged.
5 Plaintiff requests leave of the Court to amend this Complaint to name the Defendants
6 specifically when their identities become known.

7 4. That all the facts and circumstances that give rise to the subject lawsuit occurred
8 in Clark County, Nevada.

9 5. At all times relevant hereto, Defendants were the designers, contractors,
10 maintainers, owners, managers, inspectors, supervisors and controllers of the premises and
11 common areas generally known as **SMITH'S FOOD & DRUG CENTERS, INC.**, 9851 West
12 Charleston Boulevard, Las Vegas, Clark County, Nevada.

13 6. On or about February 9, 2020, Defendants, while in the course and scope of their
14 employment and agency with other Defendants, negligently failed to design, construct, control,
15 supervise, repair and maintain the premises and further failed to warn Plaintiff **SUSAN**
16 **RODRIGUEZ** of the hazard created when an employee of Defendants ran a utility cart into the
17 Plaintiff.

18 7. As a direct and proximate result, Plaintiff **SUSAN RODRIGUEZ** was seriously
19 and permanently injured to his general damage in an amount in excess of **FIFTEEN**
20 **THOUSAND DOLLARS (\$15,000.00)**.

21 8. As a further direct and proximate result, Plaintiff **SUSAN RODRIGUEZ** has
22 incurred and will incur expenses for medical care and treatment.

23 9. As a further direct and proximate result, Plaintiff **E SUSAN RODRIGUEZ**
24 sustained a loss of earnings and/or earning capacity.

25 10. As a further direct and proximate result, Plaintiff **SUSAN RODRIGUEZ** was
26 forced to retain the services of **HARRIS & HARRIS** to prosecute this matter.
27

WHEREFORE, Plaintiff prays judgment of this Court as follows:

1. General damages in an amount in excess of **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**;

2. Medical and incidental expenses incurred and to be incurred in excess of **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**;

3. Damages for lost earnings and earning capacity in excess of **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**;

4. Cost of suit; and

5. For such other and further relief as is just and proper.

DATED this 29 day of July, 2020.

HARRIS & HARRIS

By. 

BRIAN K. HARRIS, ESQ.

Nevada Bar No. 7737

CHRISTIAN N. GRIFFIN, ESQ.

Nevada Bar No. 10601


1645 Village Center Circle, Suite 60

Las Vegas, Nevada 89134

702.880.4529 - Telephone

702.880.4528 - Facsimile

Attorney for Plaintiff

 **HARRIS & HARRIS**
INJURY LAWYERS

AFFT

Harris & Harris Lawyers

Brian K. Harris, Esq.

1645 Village Center Circle, Suite 60

Las Vegas, NV 89134

State Bar No.: 7737

Attorney(s) for: Plaintiff(s)

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8/4/2020 11:40 AM

Steven D. Grierson

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Susan Rodriguez

vs

Plaintiff(s)

Smith's Food & Drug Centers, Inc.; et al.

Defendant(s)

Case No.: A-20-818724-C

Dept. No.: 32

Date:

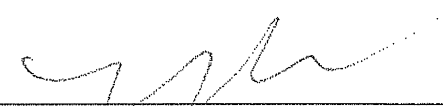
Time:

AFFIDAVIT OF SERVICE

I, Mary Magdalene Zeles, being duly sworn deposes and says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #604, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received 1 copy(ies) of the: Summons - Civil: Complaint on the 30th day of July, 2020 and served the same on the 31st day of July, 2020 at 11:39PM by serving the Defendant, Smith's Food & Drug Centers, Inc. by personally delivering and leaving a copy at Corporation Service Company, 112 N. Curry St., Carson City, NV 89703 with Kris, Administrative Assistant pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the registered agent as shown on the current certificate of designation filed with the Secretary of State.

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

I declare under penalty of perjury under the law of the state of Nevada that the foregoing is true and correct.
Executed this 3rd day of August 2020

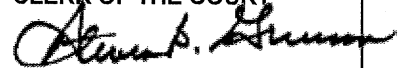

Mary Magdalene Zeles # R-2019-01041

Legal Process Service License # 604

WorkOrderNo 2005828



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Steven D. Grierson
CLERK OF THE COURT



1 ANSC
JERRY S. BUSBY
2 Nevada Bar #001107
GREGORY A. KRAEMER
3 Nevada Bar #010911
COOPER LEVENSON, P.A.
4 3016 West Charleston Boulevard - #195
Las Vegas, Nevada 89102
5 (702) 366-1125
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6 jbusby@cooperlevenson.com
gkraemer@cooperlevenson.com
7 Attorneys for Defendant
SMITH'S FOOD & DRUG CENTERS, INC.
8

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 SUSAN RODRIGUEZ

12 Plaintiff,

13 vs.

14 SMITH'S FOOD & DRUG CENTERS, INC.
DOES 1 through 10, inclusive; and ROE
15 CORPORATIONS 11 through 20, inclusive,

16 Defendants.
17

CASE NO.: A-20-818724-C
DEPT. NO.: XXXII

**DEFENDANT SMITH'S FOOD & DRUG
CENTERS, INC.'S ANSWER TO
PLAINTIFF'S COMPLAINT**

18 COMES NOW, Defendant, SMITH'S FOOD & DRUG CENTERS, INC., by and through its
19 attorney of record, JERRY S. BUSBY, ESQ., of the law firm COOPER LEVENSON, P.A., and hereby
20 answers Plaintiff's Complaint on file herein as follows:

21 **I.**

22 This answering Defendant states that it does not have sufficient knowledge or information upon
23 which to base a belief as to the truth of the allegations contained in Paragraphs 1, 3 and 4 of Plaintiff's
24 Complaint and upon said ground, denies each and every allegation contained therein.

25 **II.**

26 This answering Defendant admits the allegations contained in Paragraph 2 of Plaintiff's
27 Complaint.

28 ///

1 III.

2 In response to Paragraph 5 of Plaintiff's Complaint, this answering Defendant admits that it
3 owned and controlled the SMITH'S store located at 9851 West Charleston Boulevard, Las Vegas,
4 Clark County, Nevada. This answering Defendant denies any remaining allegations contained in said
5 Paragraph.

6 IV.

7 This answering Defendant denies each and every allegation contained in Paragraphs 6, 7, 8, 9
8 and 10 of Plaintiff's Complaint.

9 **FIRST AFFIRMATIVE DEFENSE**

10 Plaintiff did not use reasonable diligence to care for her injuries, thereby aggravating said injuries
11 as a result. Therefore, Plaintiff's claims against this answering Defendant should be denied, or any
12 recovery reduced in proportion to said negligence of Plaintiff.

13 **SECOND AFFIRMATIVE DEFENSE**

14 At the time and place alleged in Plaintiff's Complaint, and for a period of time prior thereto,
15 Plaintiff did not exercise ordinary care, caution, or prudence for the protection of her own safety, and
16 injuries and damages complained of by Plaintiff in the Complaint, if any, were directly and proximately
17 caused or contributed to by the fault, failure to act, carelessness, and negligence of Plaintiff, and
18 therefore Plaintiff's claims against this answering Defendant should be denied, or any recovery reduced
19 in proportion to said negligence of Plaintiff.

20 ///

21 ///

22 ///

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24 ///

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28 ///

1 WHEREFORE, this answering Defendant prays that Plaintiff take nothing by virtue of her
2 Complaint on file herein; for costs and disbursements incurred in this action; and for such other and
3 further relief as to the Court may deem proper.

4 Dated this 20th day of August, 2020.

5 COOPER LEVENSON, P.A.

6
7 By /s/ Jerry S. Busby

8 Jerry S. Busby
9 Nevada Bar No. 001107
10 Gregory A. Kraemer
11 Nevada Bar No. 010911
12 3016 West Charleston Boulevard - #195
13 Las Vegas, Nevada 89102
14 Attorneys for Defendant
15 SMITH'S FOOD & DRUG CENTERS, INC.
16
17
18
19
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21
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25
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27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 20th day of August, 2020, I did cause a true copy of the foregoing **DEFENDANT SMITH'S FOOD & DRUG CENTERS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

Brian K. Harris, Esq.
HARRIS & HARRIS
1645 Village Center Circle – Suite 60
Las Vegas, NV 89134
Attorneys for Plaintiff

By /s/ Theresa H. Rutkowski
An Employee of
COOPER LEVENSON, P.A.

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8/21/2020 11:31 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

ABREA
BRIAN K. HARRIS, ESQ.
Nevada Bar No. 7737
CHRISTIAN N. GRIFFIN, ESQ.
Nevada Bar No. 10601
HARRIS & HARRIS
1645 Village Center Circle, Suite 60
Las Vegas, Nevada 89134
702.880.4529 - Telephone
702.880.4528 - Facsimile
Brian@harrislawyers.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

SUSAN RODRIGUEZ)	Case No. A-20-818724-C
)	Dept. No. 32
Plaintiff,)	
)	
vs.)	
)	
SMITH'S FOOD & DRUG CENTERS, INC.))	
DOES 1 through 10 inclusive; ROE)	
CORPORATIONS 11 through 20,)	
inclusive,)	
)	
Defendants.)	

PETITION FOR EXEMPTION FROM ARBITRATION

Plaintiff hereby requests the above-entitled matter be exempted from arbitration pursuant to Nevada Arbitration Rules 3 and 5, as this case:

1. ___ present a significant issue of public policy;
2. X involves an amount in issue in excess of \$50,000.00, exclusive of interest and costs; and
3. ___ presents unusual circumstances which constitute good cause for removal from the program.

....

....

....

....

HARRIS & HARRIS
INJURY LAWYERS

1 A specific summary of the facts which support the contention for exemption are as
2 follows:

3 On or about February 9, 2020, Defendants, while in the course and scope of their
4 employment and agency with other Defendants, negligently failed to design, construct, control,
5 supervise, repair and maintain the premises and further failed to warn Plaintiff **SUSAN**
6 **RODRIGUEZ** of the hazard created when an employee of Defendants ran a utility cart into
7 the Plaintiff.

8 As a result of the accident, Plaintiff **SUSAN RODRIGUEZ** sustained the following
9 injuries:

10 Cervical Sprain / Strain

11 C4 / C5 Stenosis w/Nerve Root Compression

12 C6 / C7 Nerve Root Compression

13 Thoracic Sprain / Strain

14 Lumbar Sprain / Strain

15 L3-L4 / L4-L5 / L5-S1 Disc Bulge

16 Plaintiff **SUSAN RODRIGUEZ** has incurred the following medical specials to date:

17	1. AMR	\$	1,172.43
18	2. Summerlin Hospital	\$	12,071.00
19	3. Shadow Emergency Physicians	\$	1,957.00
20	4. Desert Radiologists	\$	530.00
21	5. Maria Pilar A. Faylona, M.D.	\$	523.96
22	6. John Lyons Physical Therapy	\$	6,630.00
23	7. Pueblo Medical Imaging	\$	4,950.00
24	8. Stuart Kaplan, M.D.	\$	1,000.00
25	9. Interventional Pain & Spine Institute	\$	11,245.00
26			
27			
28			

10.	Surgical Arts Center	\$	32,673.96
11.	David J. Oliveri, M.D.	\$	Pending
	TOTAL	\$	<u>72,753.35</u>

I hereby certify pursuant to NRCP 11 this case to be within the exemption(s) marked above and am aware of the sanctions which may be imposed against any attorney or party who without good cause or justification attempts to remove a case from the arbitration program.

DATED this 21st day of August, 2020

HARRIS & HARRIS

By: /s/ **BRIAN K. HARRIS**
BRIAN K. HARRIS, ESQ.

Nevada Bar No. 7737

CHRISTIAN N. GRIFFIN, ESQ.

Nevada Bar No. 10601

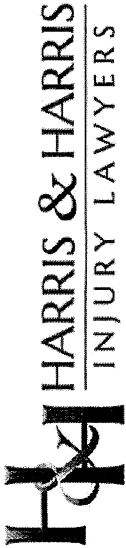
1645 Village Center Circle, Suite 60

Las Vegas, Nevada 89134-6371

702.880.4529 - Telephone

702.880.4528 - Facsimile

Attorneys for Plaintiff



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of August, 2020, I served a true and correct copy of the foregoing **PETITION FOR EXEMPTION FROM ARBITRATION**, addressed to the following counsel of record at the following address(es):

— **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

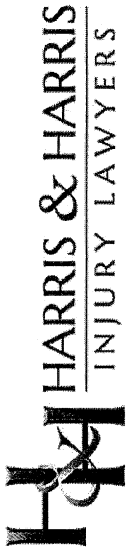
— **VIA FACSIMILE:** by causing a true copy thereof to be telecopied to the number indicated on the service list below.

— **VIA ELECTRONIC: FILE ONLY / FILE AND SERVE / SERVICE ONLY** by causing a true copy thereof to be electronically submitted through WIZNET, the Eighth Judicial District Court efilng program.

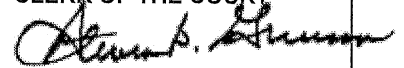
— **VIA PERSONAL DELIVERY:** by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

Jerry S. Busby, Esq.
Gregory A. Kraemer, Esq.
COOPER LEVENSON, P.A.
3016 W. Charleston Boulevard, Suite 195
Las Vegas, Nevada 89102
702.366.1125 - Telephone
702.366.1857 - Facsimile
Attorneys for Defendant


HARRIS & HARRIS Employee



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Steven D. Grierson
CLERK OF THE COURT



CDRG

DISTRICT COURT

CLARK COUNTY, NEVADA

Susan Rodriguez, Plaintiff(s)

vs.

CASE NO: A-20-818724-C

DEPT. NO: XXXII

Smith's Food & Drug Centers, Inc.,

Defendant(s)

COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION

REQUEST FOR EXEMPTION FILED ON: August 21, 2020

EXEMPTION FILED BY: Plaintiff OPPOSITION: No

DECISION

Having reviewed the Request for Exemption, and all related pleadings, the Request for Exemption is hereby GRANTED.

DATED this 8th of September, 2020.



ADR COMMISSIONER

NOTICE

Pursuant to Nevada Arbitration Rule 5(D), you are hereby notified you have five (5) days from the date you are served with this document within which to file written objections with the Clerk of Court and serve all parties. The Commissioner's Decision is deemed served three (3) days after the Commissioner's designee deposits a copy of the Decision in the U.S. Mail. Pursuant to NEFCR Rule 9(f)(2) an additional 3 days is not added to the time if served electronically (via e-service).

A copy of the foregoing Commissioner's Decision on Request for Exemption was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program on the date of e-filing.

If indicated below, a copy of the foregoing Commissioner's Decision on Request for Exemption was also:

- ☐ Placed in the folder of counsel maintained in the Office of the Clerk of Court on _____, 2020.
- ☐ Mailed by United States Postal Service, Postage prepaid, to the proper parties listed below at their last known address(es) on _____.

/s/ Loretta Walker
ADR COMMISSIONER'S DESIGNEE